



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 23, 2010

Ms. Patricia Fleming
Assistant General Counsel
TDCJ—Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2010-14477

Dear Ms. Fleming:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 394425.

The Texas Department of Criminal Justice (the "department") received four requests from the same requestor for information relating to one named officer and to three specified positions, including job description, post order, reporting chain of command, job posting, names and date of interviews of applicants, and announcement of selection and date of assignment for the person hired. You state you have released or will release some information to the requestor. You claim the submitted post order is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.108(b)(1) of the Government Code excepts from public disclosure an internal record of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution if "release of the internal record or notation would interfere with law enforcement or prosecution[.]" Gov't Code § 552.108(b)(1); *see also City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information which, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). The requestor contends the department is not a law enforcement agency for purposes of section 552.108, and therefore

may not withhold the requested information under that section. We note the department does constitute a law enforcement agency for purposes of section 552.108. *See* Attorney General Opinion MW-381 at 3 (1981), Open Records Decision No. 413 at 1 (1984) (concluding department is law enforcement entity for purposes of section 552.108). Accordingly, we will consider your argument under section 552.108.

Generally, a governmental body claiming section 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement and crime prevention. *See* Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). This office has on numerous occasions concluded that section 552.108 excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (1989) (holding predecessor to section 552.108 excepts detailed guidelines regarding police department's use of force policy), 508 (1988) (holding release of dates of prison transfer could impair security), 413 (holding predecessor to section 552.108 excepts sketch showing security measures for execution).

You contend the submitted post order "could expose vulnerabilities in [the department's] security procedures" and "be exploited by inmates . . . and thereby undermine the security of [the department's] units and threaten public safety." Based on your arguments and our review, we conclude release of the submitted post order would interfere with law enforcement and crime prevention. Therefore, the department may withhold the submitted post order under section 552.108(b)(1) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 394425

Enc. Submitted documents

c: Requestor
(w/o enclosures)